

United States District Court

EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

UNITED STATES OF AMERICA

vs.

MICHAEL TYRONE PRICE

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Case No. 4:04cr116.10
(Judge Schell)

REPORT AND RECOMMENDATION **OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on May 8, 2009 to determine whether Defendant violated his supervised release. Defendant was represented by Denise Benson. The Government was represented by Ernest Gonzalez.

On March 29, 2005, Defendant was sentenced by the Honorable Paul Brown to thirty-six (36) months' custody followed by four (4) years of supervised release for the offense of Conspiracy to Manufacture, Distribute or Possess with Intent to Manufacture, Distribute or Dispense Cocaine Base. On April 21, 2008, Defendant completed his period of imprisonment and began service of his supervised term.

On January 22, 2009, the U.S. Pretrial Services Officer filed a Petition for Warrant for Offender Under Supervision. The petition asserted that Defendant violated the following Mandatory condition: (1) the defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as directed by the court. The petition also alleged violations of several standard and special conditions. The Government moved to withdraw the alleged violations of the standard and special conditions.

The petition alleges that Defendant committed the following acts with regard to the mandatory condition: (1) The defendant submitted a urine specimen at Sharp Focus, Denton, Texas on July 23, 2008, which tested positive for cocaine. He admitted verbally and in writing to U.S. Probation Officer Linda Werner to said drug use on July 28, 2008.

Prior to the Government putting on its case, Defendant entered a plea of true to the violation. The Court recommends that Defendant's supervised release be revoked.

RECOMMENDATION

The Court recommends that the District Judge revoke Defendant's supervised release. The Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of six (6) months followed by a term of supervised release of forty-two (42) months with the first 180 days of supervised release being served in community confinement at a halfway house. The Court recommends that the Defendant be sent to Volunteers of America, a halfway house in Fort Worth, Texas. After the Court announced the recommended sentence, Defendant executed the consent to revocation of supervised release and waiver of right to be present and speak at sentencing.

Failure to file written objections to the proposed findings and recommendations contained in this report within ten days shall bar an aggrieved party from attacking the factual findings on appeal. *Thomas v. Arn*, 474 U.S. 140, 106 (1985); *Nettles v. Wainwright*, 677 F.2d 404, 408 (5th Cir. 1982) (en banc).

SIGNED this 8th day of May, 2009.


AMOS L. MAZZANT
UNITED STATES MAGISTRATE JUDGE